

# State of South Dakota

## EIGHTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2014

248V0427

### SENATE BILL NO. 78

Introduced by: The Committee on Commerce and Energy at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete provisions regarding  
2 the Commissioner of South Dakota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 18-2-1 be repealed.

5 ~~— 18-2-1. The Governor shall have power to appoint one or more commissioners in any state~~  
6 ~~of the United States or any of the territories belonging to the United States, who shall continue~~  
7 ~~in office during the pleasure of the Governor and shall have authority to take acknowledgment~~  
8 ~~and proof of the execution of any deed or other conveyance, or lease of any lands lying in this~~  
9 ~~state, and of any contract, letter of attorney, or any other writing under seal or not, to be used~~  
10 ~~or recorded in this state.~~

11 Section 2. That § 18-2-2 be repealed.

12 ~~— 18-2-2. Each commissioner appointed pursuant to § 18-2-1 shall have an official seal on~~  
13 ~~which shall be engraved the words, Commissioner of South Dakota, with his surname at length~~  
14 ~~and at least the initials of his Christian name; also the name of the state or territory in which he~~  
15 ~~has been commissioned to act, which seal must be so engraved as to make a clear impression.~~



Section 3. That § 18-2-3 be repealed.

~~18-2-3. Every such commissioner, before performing any duty or exercising any power by virtue of his appointment, must take and subscribe an oath or affirmation before some judge or clerk of some court of record having a seal of the state or territory in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner under and by virtue of the laws of the State of South Dakota, with a description and impression of his seal of office to be filed in the Office of the Secretary of this State.~~

Section 4. That § 18-2-4 be repealed.

~~18-2-4. Every commissioner appointed as mentioned in § 18-2-1 shall have power to administer any oath which may be lawfully required in this state to any person willing to take the same, and to take and duly certify all depositions to be used in any of the courts of this state in conformity to the laws thereof, either on interrogatories proposed under a commission from any court in this state or by consent of the parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified to according to law by a proper officer in this state.~~

Section 5. That § 18-2-5 be repealed.

~~18-2-5. All acknowledgments and proofs as provided in § 18-2-1, taken according to the laws of this state and certified to by such commissioner under his seal of office and annexed to or endorsed upon such instrument, shall have the same force and effect as if the same had been taken before any officer authorized to perform such acts in this state.~~

Section 6. That § 18-4-4 be repealed.

~~18-4-4. The proof or acknowledgment of an instrument may be made without the state, but within the United States, and within the jurisdiction of the officer, before either:~~

~~(1) A justice, judge, or clerk of any court of record of the United States;~~

- 1     ~~—(2)— A justice, judge, or clerk of any court of record of any state or territory;~~  
2     ~~—(3)— A notary public;~~  
3     ~~—(4)— Any officer of the state or territory where the acknowledgment is made, authorized~~  
4         ~~by its laws to take such proof or acknowledgment; or~~  
5     ~~—(5)— A commissioner appointed for the purpose by the Governor of this state.~~

6     Section 7. That § 18-4-5 be repealed.

7     ~~—18-4-5. The proof or acknowledgment of an instrument may be made without the United~~  
8     ~~States, before either:~~

- 9     ~~—(1)— An ambassador, a minister, commissioner, or charge d'affaires of the United States,~~  
10         ~~resident and accredited in the country where the proof or acknowledgment is made;~~  
11     ~~—(2)— A consul, vice consul, or consular agent of the United States, resident in the country~~  
12         ~~where the proof or acknowledgment is made;~~  
13     ~~—(3)— A judge, clerk, register, or commissioner of a court of record of the country where~~  
14         ~~the proof or acknowledgment is made;~~  
15     ~~—(4)— A notary public of such country;~~  
16     ~~—(5)— An officer authorized by the laws of the country where the proof of acknowledgment~~  
17         ~~is taken to take proof or acknowledgment; or~~  
18     ~~—(6)— When any of the officers mentioned in this chapter are authorized to appoint a~~  
19         ~~deputy, the acknowledgment or proof may be taken before such deputy.~~

20     ~~—All proofs or acknowledgments heretofore taken according to the provisions of this section~~  
21     ~~are hereby declared to be sufficiently authenticated and to be entitled to record, and any such~~  
22     ~~record hereafter made shall be notice of the contents of the instrument so recorded.~~